

the card will be time consuming and burdensome. In addition, as discussed in the final rule, the National Analysts study found that "many owners need to be reassured [that the card is not a warranty card], given their negative feelings toward, and perceptions of, warranty registrations * * *" (p. 14). Inclusion of marketing information and questions may cause consumers to confuse the registration form with a warranty card and therefore might not return the form to register themselves for safety recall purposes.

The agency also notes that the product forms assessed in NDL's study were not representative of NHTSA's registration form. NDL's short form included questions about "purchase information" (which NHTSA believes refers to information about the item that was purchased). Questions of this or any other type are not permitted on NHTSA's registration form.

The petitioner stated that it is possible that its suggested changes would affect the return rate for registration forms, and said that NDL would conduct testing to measure this effect if NHTSA is willing to consider NDL's suggested changes. The agency has considered the suggestions and has determined that there is not reasonable possibility that a rule along the lines requested by NDL would be issued at the conclusion of the requested rulemaking proceeding. NDL's petition for rulemaking is, therefore, denied.

Authority: 15 U.S.C. 1392, 1401, 1407; delegation of authority at 49 CFR 1.50.

Issued on May 26, 1993.

Stanley R. Scheiner,
Acting Associate Administrator for
Rulemaking.

[FR Doc. 93-13095 Filed 6-3-93; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB99

Endangered and Threatened Wildlife and Plants; Emergency Rule Establishing Manatee Protection Areas in Lake Woodruff National Wildlife Refuge, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Emergency rule.

SUMMARY: This emergency rule, in conjunction with other required actions, establishes manatee protection areas on

certain waterways within the perimeter of Lake Woodruff National Wildlife Refuge (NWR), Volusia County, Florida. This action will prevent the loss of manatees from boat collisions by imposing speed restrictions on boats in rivers, creeks, and lakes of known high manatee use within the perimeter of the refuge. The effect of these regulatory measures will be comparable to the protection afforded by the State rule adopted by the Florida Governor and Cabinet on June 25, 1991, for this portion of Volusia County. The emergency action is effective for 120 days and is taken under the authority of the Endangered Species Act of 1973, as amended, and the Marine Mammal Protection Act of 1972.

EFFECTIVE DATE: May 17, 1993, through September 14, 1993 unless terminated sooner by publication in the *Federal Register*. In accordance with 50 CFR 17.106, the effective date for beginning emergency protection was established through a legal notice published in the *Daytona Beach News Journal*, Daytona Beach, Florida on May 16, 1993.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Jacksonville Field Office, 3100 University Blvd. South, suite 120, Jacksonville, FL 32216.

FOR FURTHER INFORMATION CONTACT: Robert O. Turner, at above address (904/232-2580) or Vance Eaddy, Senior Resident Agent, U.S. Fish and Wildlife Service, 9721 Executive Center Dr., suite 206, St. Petersburg, Florida 33702, 813/893-3651.

SUPPLEMENTARY INFORMATION:

Background

Many Florida manatees (*Trichechus manatus*) are known to utilize waters associated with Lake Woodruff NWR for feeding, resting, and as travel routes. A distinct group spends the winter months in or near Blue Spring State Park on the St. Johns River where their movements and habits have been studied intensively over a period of more than 20 years. In that time, this Blue Spring population has grown from 11 animals in 1970 to over 70 in 1992. The increase is believed to be partly the result of recruitment from other areas and partly due to reproduction by the original animals.

Because refuge waters are darkly colored, turbid, and contain abundant vegetation, tending to conceal manatees, manatee use of the refuge can only be reliably determined by aerial surveys and radio-tracking. Studies conducted by John Bengtson in 1979 and 1980 (Bengtson 1981) and the Service's

Sirenia Research Project in Gainesville, Florida in 1981 and 1983 (FWS unpublished data) have documented waterways within Lake Woodruff NWR as important manatee habitat, particularly for the Blue Spring population. Specifically, they demonstrate that: (1) The Blue Spring population spends a great deal of time in refuge waterways, particularly during the spring, summer, and fall, and on warmer winter days, and (2) the tributaries of Lake Woodruff NWR, including the area from the Norris Dead River through the Ziegler Dead River, are very high-use areas.

Both Florida Department of Natural Resources (DNR) and Service experts agree that the greatest threat at this time to the survival of manatees statewide is high-speed boat traffic. Reducing boat-related mortality is a Priority 1 action in the revised Florida Manatee Recovery Plan. In Volusia County, where Blue Spring and Lake Woodruff NWR are located, the increasing number of registered boats has paralleled an increase in manatee mortality rates. Of the 72 manatee deaths in Volusia County from known causes from 1974 through 1992, 36 percent were watercraft-related. Eighty-one percent of the watercraft-caused deaths have occurred since 1982, with 54 percent of these deaths occurring from 1987 through 1991. Because the waterbottoms, and therefore the waters, of Lake Woodruff NWR are under the jurisdiction of the State of Florida, the Service's position has been that the Florida Department of Natural Resources was the most appropriate agency to develop measures to reduce boat-related manatee mortality.

In 1989, Florida's Governor and Cabinet directed DNR to work with Volusia and 12 other key counties to implement measures to reduce boat-related manatee injuries and deaths. Counties were required to submit their initial recommendations for speed zones to DNR by the end of December 1989.

Volusia County first submitted proposed speed zones to DNR for review in December 1989. In March 1991, however, a Blue Spring manatee—known winter resident for a number of years—was killed by a boat within Lake Woodruff NWR. Within a three-week period, two additional Blue Spring manatees were killed by boats near the refuge. Because these deaths represent a significant percentage of the Blue Spring population, the Governor and Cabinet responded by imposing emergency speed limits on portions of the St. Johns River and its tributaries near Blue Spring (including the waters of Lake Woodruff NWR) to take effect on March

26, 1991 and to last for 90 days during which time a permanent protection plan would be prepared by Volusia County. The tributaries within Lake Woodruff NWR became Slow Speed zones (approximately 5–9 mph), and the maximum speed in the center of Lakes Woodruff and Dexter was limited to 30 mph daytime, 25 mph nighttime. The locations of the Slow Speed zones were determined by DNR on the basis of an evaluation of all available sighting and mortality data, as well as Volusia County recommendations, public input, and recommendations made by the Service's Sirenia Research Project, the facility that has conducted most of the research on the Blue Spring manatees. These Slow Speed zones are also consistent with the revised Florida Manatee Recovery Plan (FWS 1989) and the Marine Mammal Commission's Preliminary Assessment of Habitat Protection Needs for the West Indian Manatees on the East Coast of Florida and Georgia (Marine Mammal Commission 1988).

As the period of emergency speed limits neared its end, DNR finalized its permanent proposal for consideration by the governor and Cabinet. Areas of disagreement with the county regarding the nature of speed zones in several critical protection areas remained unresolved. One area of disagreement was the county's request for relatively high speeds (30 mph) in portions of the tributaries of Lake Woodruff NWR. Both DNR and the Service felt this speed limit would afford inadequate protection in a high-use manatee area.

Subsequently, on June 25, 1991, one day after the emergency measures expired and over the objections of Volusia County's task force, the Governor and Cabinet adopted as a rule DNR's more restrictive recommendations. The State protection plan limits speeds in Lake Woodruff's tributaries, as in the emergency measures, to Slow Speed, which is defined as a boat that is not on a plane and is in the water and producing no wake or a minimum wake. For most boats using the refuge, this definition limits speeds to between 5 and 9 mph. Slow speed zones were also established within 1500 feet of the shorelines of Lakes Woodruff and Dexter; planning speeds of 30 mph daytime, 25 mph nighttime were allowed in the lakes' centers.

During 1991, an organized group of Volusia County citizens protested the speed zones and threatened to file injunctions suspending the rule. The Service responded by publishing a notice in the *Federal Register* of February 7, 1992 (57 FR 4745) to notify

State and local parties that the Service was prepared to protect manatees within the boundaries of the refuge through Federal regulation if the State rule were suspended for any reason.

Recently, local individuals have protested the State rule by intentionally exceeding the speed zones, taking their citations to court, and using the court as a forum for challenging the legality of the rule. Before going to trial on one citation, a local businessman filed a Motion to Dismiss with the Volusia County Court seeking to have the statutes authorizing the manatee rules declared unconstitutional. County Judge Freddie J. Worthen questioned whether the State rule might be "unconstitutionally vague" in its definition of "undue" restrictions on boaters, water-skiers, and fishermen and requested a higher court review the rule.

Although the Fifth District Court has not yet ruled, on January 29, 1993, Volusia County Judge H. Pope Hamrick, Jr.—ruling on a Motion to Dismiss in a case involving a similar citation—declared that the rule was "unconstitutionally void for vagueness" in that it fails to provide guidelines to carry out the Legislature's intent not to "unduly interfere" with the rights of fishermen, boaters, and water-skiers, as provided in Florida Statutes. Unlike the decision of Judge Worthen, this ruling was not limited to the individual or to one particular area of contention, but voided the entire Volusia County rule.

Judge Hamrick's decision left Volusia County, and Lake Woodruff NWR in particular, without manatee protection for the first time since emergency measures were implemented in March 1991. The Governor and Cabinet responded quickly and within a week implemented a new Emergency Rule to reinstate the speed zones until May 11, 1993 (90 days). During this time, the Governor directed DNR and the county to attempt to resolve their differences.

DNR staff met with County officials and concerned individuals, groups and agencies on several occasions in an attempt to work out a compromise that would provide boaters some of the relief they are seeking while still protecting manatees. On March 26, 1993, DNR published a revised draft speed zone rule that substantially reduced speed restrictions in certain areas including portions of Lake Woodruff NWR, contingent upon Volusia County's commitment to strong enforcement and education initiatives.

During the 21-day public comment period for the proposed revised speed zone rule, Save the Manatee Club petitioned DNR under provisions of Section 120.54 of the Florida Statutes.

Because the rule promulgating process would be delayed during litigation, on April 27, 1993, the Florida governor and Cabinet extended the emergency rule indefinitely.

Reasons for Emergency Determination

The Service believes strongly that unless high speed boating is eliminated in the narrow backwaters of Lake Woodruff NWR, there will be additional, avoidable, boat-related manatee injuries and mortalities. While the number of manatees killed on the refuge is not extremely high now, most of the manatees in the Blue Spring population already bear the scars of sub-lethal collisions with boats. As the number of boats and manatees using the area increases, so does the likelihood of additional injuries and fatal collisions. Given the increased number of manatee deaths in recent years and the uncertainty of protection under State rule, the Service chooses not to wait until there are more deaths before taking action to protect manatees within the perimeter of the refuge.

This emergency rule establishes manatee protection areas for the purpose of maximizing the protection of manatees in the waters associated with Lake Woodruff NWR. The designated areas are to be regulated as a "manatee refuge." A manatee refuge is defined in 50 CFR 17.102 as "an area in which the Director has determined that certain waterborne activity would result in the taking of one or more manatees, or that certain waterborne activity must be restricted to prevent the taking of one or more manatees, including but not limited to a taking by harassment." Under this authority, waters of Volusia County south of SR 40, west of the CSX railway line, north of SR 44, and east of the eastern shoreline of the St. Johns River, are included in the emergency rule. The purpose of using roads and other landmarks is to simplify the regulation for both boaters and law enforcement officials.

References Cited

- Bengtson, J.L. 1981. Ecology of manatees (*Trichechus manatus*) in the St. Johns River, Florida. Ph.D. Thesis, Univ. Minnesota, Minneapolis. 126 pp.
- Florida Administrative Code, Section 16N-22.012, Volusia and Associated County (parts of Putnam Lake, Seminole and Flagler) Zones as formerly adopted July 25, 1991.
- Marine Mammal Commission. 1988. Preliminary assessment of habitat protection needs for West Indian manatees on the east coast of Florida and Georgia. Report of the Marine Mammal Commission in Consultation with its Committee of Scientific Advisors on Marine Mammals. Washington, DC.

U.S. Fish and Wildlife Service. Unpublished data. National Ecology Research Center, Gainesville, FL.

U.S. Fish and Wildlife Service. 1989. Florida Manatee (*Trichechus manatus latirostris*) Recovery Plan. Prepared by the Florida Manatee Recovery Team for the U.S. Fish and Wildlife Service, Atlanta, GA. 98 pp.

Author

The primary author of this emergency rule is Robert O. Turner, Jacksonville Field Office, U.S. Fish and Wildlife Service, 3100 University Boulevard South, suite 120, Jacksonville, Florida 32216.

Authority

The authority to establish manatee protection areas is provided by the Endangered Species Act of 1973, as amended (16 U.S.C. 1533 *et seq.*, and the Marine Mammal Protection Act (16 U.S.C. 1361-1407).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Marine mammals, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

PART 17—[AMENDED]

Subpart J of part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation of part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544, 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

2. Section 17.102 is amended by adding the following paragraph in alphabetical order:

§ 17.102 Definitions.

* * * * *

Slow speed is defined as the speed a boat is traveling in a manatee area if it (1) is not on a plane, (2) is producing no wake or minimum wake, (3) and is level in the water.

3. Section 17.108 is amended by adding paragraph (c), followed by a map, to read as follows:

§ 17.108 List of designated manatee protection areas.

* * * * *

(c) *Manatee refuges.* The following areas are designated as manatee refuges.

Waterborne activities within these areas are restricted or prohibited as noted.

(1) Lake Woodruff National Wildlife Refuge, Volusia County, Florida. Boat speeds will be restricted year-round in accordance with paragraphs (c)(1)(i) and (c)(1)(ii) of this section.

(i) *Slow speed zone.* The following zones shall include all associated and navigable tributaries, lakes, creeks, coves, bends, backwaters, canals, and boat basins within the perimeter of Lake Woodruff NWR, unless otherwise designated or excluded:

(A) *Lake Dexter:* All waters within 1500 feet of the general contour of the shoreline of Lake Dexter easterly of a line that bears North 00°00'00" East (True) running from the shoreline of Dexter Point through the general contour of the shoreline of the northernmost point of the west end of Dexter Island (approximate latitude 29°06'06" North, approximate longitude 81°29'56" West), and westerly of a line that bears North 00°00'00" East (True) running through the westernmost tip of the shoreline of Audubon Island at the eastern end of the lake (approximate latitude 29°06'40" North, approximate longitude 81°27'43" West);

(B) *Lake Dexter/Tick Island Creek Area:* All waters within the general contour of the shoreline of those portions of Lake Dexter and Tick Island Creek easterly of a line that bears North 00°00'00" East (True) running through the westernmost tip of the shoreline of Audubon Island at the eastern end of Lake Dexter (approximate latitude 10°06'40" North, approximate longitude 81°27'43" West) and westerly of a line that bears North 55°00'00" East (True) running from the shoreline of Tick Island to the shoreline of the westernmost point of the south bank of Cypress Branch (approximate latitude 29°06'54" North, approximate longitude 81°25'54" West), except as described under paragraph (c)(1)(ii)(A) of this section;

(C) *Eph Creek, Harry's Creek Area:* All waters of Eph Creek, Cross Creek, Taylor Creek, Harry's Creek and Honey Creek southerly of the confluence of Lake Dexter with Eph Creek, easterly of the confluence of the St. Johns River with Cross Creek, westerly of the confluence of Lake Woodruff with Harry's Creek, and northeasterly of the confluence of Honey Creek with the St. Johns River;

(D) *Lake Woodruff Area:* All waters within 1500 feet of the general contour of the shoreline of Lake Woodruff southerly of a line that bears North 55°00'00" East (True) running from the general contour of the shoreline of Tick Island to the general contour of the shoreline of the westernmost point of the south bank of Cypress Branch (approximate latitude 29°06'54" North, approximate longitude 81°25'54" West), excepting Spring Garden Creek not covered by subparagraph (c)(1)(i)(G) of this section;

(E) *Scoggin Creek Area:* All waters of Scoggin Creek southerly of the confluence of Lake Woodruff with Scoggin Creek; including the canal southwesterly of the southwesterly shore of Lake Woodruff, easterly of Harry's Creek, and westerly of Norris Dead River;

(F) *Norris Dead River, Ziegler Dead River, Highland Park Canal Area:* All waters of Norris Dead River and Scoggin Lake southerly of Lake Woodruff, all waters of Ziegler Dead River, all waters of Highland Park Canal, all waters of Blue Peter Lake, and Daisy Lake, and all other associated waters south of Lake Woodruff and east of the St. Johns River;

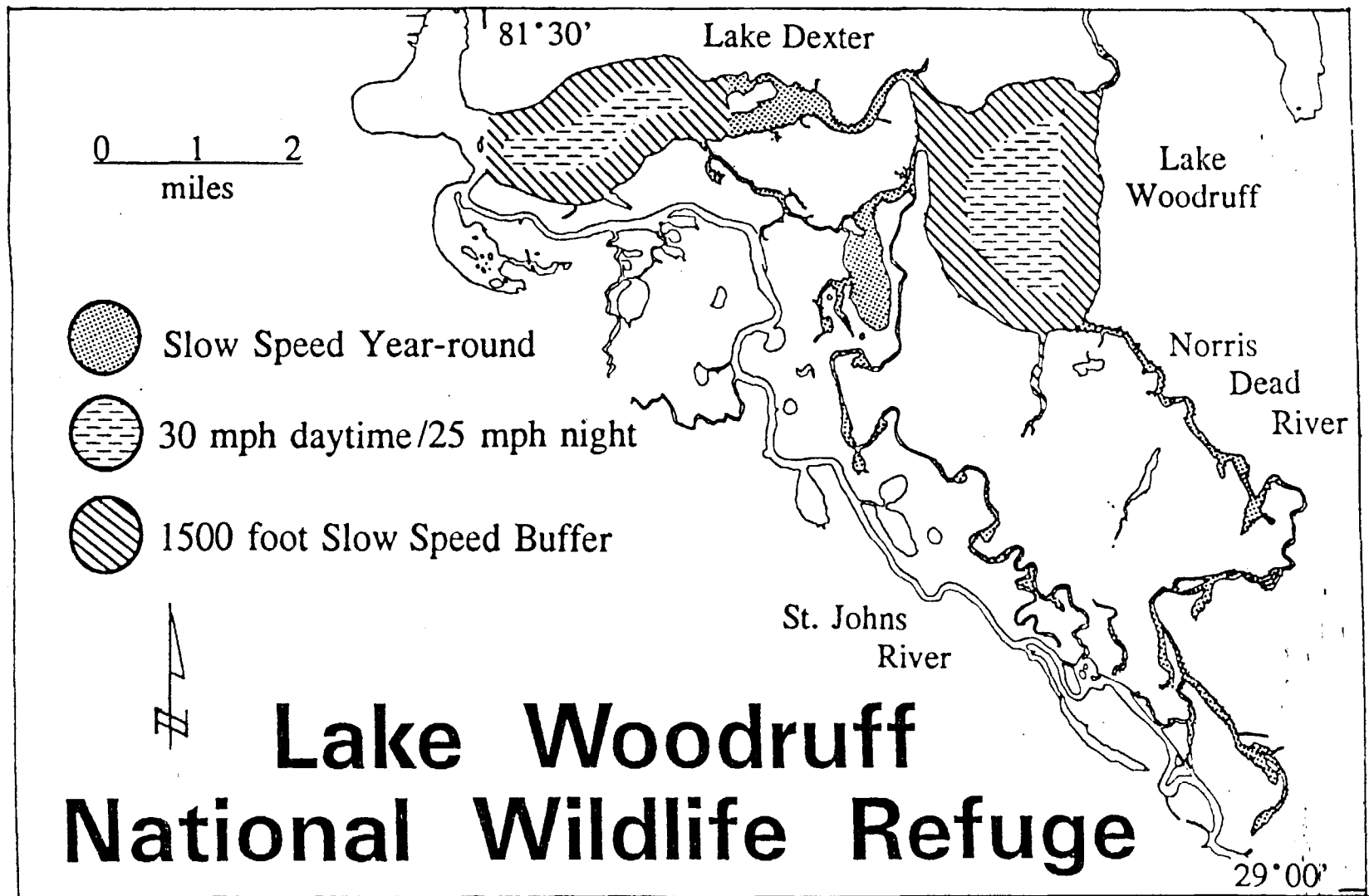
(G) *Spring Garden Creek Area:* All waters within Spring Garden Creek northeasterly of a line that bears North 55°00'00" West (True) running through the shoreline from the tip of a point of land on the southerly bank of Spring Garden Creek (approximate latitude 29°06'47" North, approximate longitude 81°24'10" West) and southerly of a line that bears North 50°00'00" East (True), running through the northerly tip of an unnamed island (approximate latitude 29°07'03" North, approximate longitude 81°24'10" West);

(ii) *Maximum 30 mph/25 mph nighttime zone.* All waters within the perimeter of Lake Woodruff NWR as follows:

(A) *Lake Dexter:* All waters of Lake Dexter, except as otherwise designated under paragraphs (c)(1)(i)(A) and (c)(1)(i)(B) of this section.

(B) *Lake Woodruff:* All waters of Lake Woodruff and Tick Island Mud Lake, except as otherwise designated under paragraphs (c)(1)(i)(C) and (c)(1)(i)(D) of this section.

BILLING CODE 4310-55-M



BILLING CODE 4310-66-C

Dated: May 19, 1993.
Richard N. Smith,
Acting Director, Fish and Wildlife Service.
 [FR Doc. 93-13158 Filed 6-3-93; 8:45 am]
 BILLING CODE 4310-65-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 930402-3134; I.D. 052193D]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Amendment to an emergency interim rule; request for comments.

SUMMARY: The Secretary of Commerce (Secretary) amends an emergency interim rule to establish fishery management measures for the ocean salmon fisheries off Washington, Oregon, and California from June 1 through August 4, 1993. Specific fishery management measures vary by fishery and area. Together they establish fishing areas, seasons, quotas, legal gear, recreational fishing days and catch limits, possession and landing restrictions, and minimum lengths for salmon taken in the exclusive economic zone (3-200 nautical miles) off Washington, Oregon, and California. Based on concerns regarding the spawning escapement and Indian inriver harvest of Klamath River fall chinook salmon, NMFS disapproved the 1993 salmon seasons initially recommended by the Pacific Fishery Management Council (Council) and, by emergency rule, implemented management measures for the month of May only. This amendment is necessary to establish management measures for the remainder of the season (assuming a 90-day extension) beginning June 1, 1993. This rule is effective through August 4, but the Secretary anticipates extending it through November 2, 1993. These management measures are intended to prevent overfishing, to apportion the ocean harvest equitably among non-Indian commercial and recreational and Indian fisheries, and to provide for Indian and non-Indian inside fisheries and spawning escapement. These measures are based on the Council's recommendations, and vary from those only as necessary to meet the Secretary's goals regarding Klamath fall-run chinook salmon.

DATES: Effective from 0001 hours p.d.t., June 1, 1993, through 2400 hours p.d.t., August 4, 1993. Comments will be accepted through June 14, 1993.

ADDRESSES: Comments on the amended emergency interim rule may be sent to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115-0070; or Gary Matlock, Acting Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Boulevard, suite 4200, Long Beach, CA 90802-4213.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206-526-6140, or Rodney R. McInnis at 310-980-4030.

SUPPLEMENTARY INFORMATION:

Background

The ocean salmon fisheries off Washington, Oregon, and California are managed under a framework fishery management plan (FMP) that was approved in 1984 and has been amended four times (52 FR 4146, February 10, 1987; 53 FR 30285, August 11, 1988; 54 FR 19185, May 4, 1989; 56 FR 26774, June 11, 1991). Regulations at 50 CFR part 661 provide the mechanism for making preseason and inseason adjustments to the management measures, within limits set by the FMP, by notice in the *Federal Register*.

This amended emergency interim rule adopts management measures for the 1993 ocean salmon fisheries from June 1, 1993, until its expiration. The Secretary disapproved the 1993 salmon seasons initially recommended by the Council because they did not provide sufficient spawning escapement and Indian inriver harvest of Klamath River fall chinook salmon. Instead, he adopted management measures for only the month of May under the emergency rulemaking authority of section 305(c) of the Magnuson Fishery Conservation and Management Act (Magnuson Act) (58 FR 26922, May 6, 1993). The Council responded by considering, but not recommending, certain alternative management measures for the remainder of the 1993 seasons. It concluded that the alternative measures would likely meet the Secretary's objectives with the least harm to West Coast fishery interests. This action amends the previous emergency rule by adopting these alternative management measures. The amended emergency interim rule will remain in effect for 90 days and probably will be extended for a second 90-day period.

The initial Council recommendations upon which this rule is based are discussed and fully analyzed in the

Council's Preseason Report III, "Analysis of Council-Adopted Management Measures for 1993 Ocean Salmon Fisheries" as well as the Supplement to Preseason Report III. The basis for this rule and its impacts are discussed and analyzed in NOAA's Environmental Assessment prepared for the rule.

Klamath River fall-run chinook salmon are the primary management concern off southern Oregon and northern California. In 1992, the Klamath River fall-run chinook salmon escapement fell below the minimum spawning escapement floor of 35,000 natural spawners for the third consecutive year; 15,500, 11,500, 11,100 adult natural spawners returned in 1990, 1991, and 1992, respectively. During the preseason ocean salmon fishery management process, the Department of the Interior advised the Council of that Department's intent to allow the Indian tribes on the Klamath River to take 50 percent of the harvestable Klamath River salmon. The Council, at its April 6-9 meeting, recommended to the Secretary management measures which, if combined with a tribal harvest equal to the non-Indian harvest of Klamath River fall chinook salmon, would have returned approximately 21,000 natural spawners, 61 percent of the natural spawning escapement floor, to the Klamath River. Were this to have happened, the Klamath River escapement floor of 35,000 natural spawners would not have been achieved for a fourth consecutive year.

Subsequent to the Council's April meeting, the Departments of Commerce and the Interior held extensive discussions regarding tribal fishing rights, ocean and recreational harvests, spawning escapements, and options available to the Federal government during the forthcoming 1993 fishing seasons. The Department of the Interior explained that it would face serious legal challenges if it was forced to restrict the Klamath River tribal fisheries to less than 50 percent of the harvestable surplus because the Department of Commerce had failed to provide sufficient fish to meet both the tribal share and the spawning escapement. The Department of Commerce explained that since there was no court order or published legal opinion establishing conclusively the magnitude of the tribal fishing rights, it was reluctant to impose a severe economic burden on ocean fisheries on such informal legal advice. Both Departments agreed, however, that failure to meet minimum spawning escapement goals in the past 3 years was